

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JANICE M. McMANN, Individually and as  
Personal Representative of the heirs and estate of  
DALE E. McMANN,

Plaintiff,

v.

AIR & LIQUID SYSTEMS CORPORATION,  
successor by merger to Buffalo Pumps, Inc., et  
al;

Defendants.

NO. 3:16-cv-05635 RBL

**DECLARATION OF BRIAN  
WEINSTEIN IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO AIR  
& LIQUID SYSTEMS  
CORPORATION'S MOTION FOR  
SUMMARY JUDGMENT**

**NOTED ON MOTION CALENDAR:  
FEBRUARY 2, 2018**

**ORAL ARGUMENT REQUESTED**

I, Brian Weinstein, declare and state as follows:

1. I am over the age of 18 years and am competent to testify to the matters below.

2. I am one of the attorneys representing Plaintiff, Janice M. McMann, Individually and as Personal Representative of the heirs and estate of Dale E. McMann, deceased, and make this Declaration in support of Plaintiff's Opposition to Air & Liquid Systems Corporation, as successor-by-merger to Buffalo Pumps, Inc.'s Motion for Summary Judgment.

DECLARATION OF BRIAN WEINSTEIN IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO AIR & LIQUID SYSTEMS  
CORPORATION'S MOTION FOR SUMMARY JUDGMENT

THE NEMEROFF LAW FIRM  
3355 WEST ALABAMA STREET, STE. 650  
HOUSTON, TEXAS 77098  
TELEPHONE: 281.378.5970  
FACSIMILE: 281.378.5976

1           3.       Attached hereto as **Exhibit “1”** is a copy of the Deposition of Dale McMann,  
2 Volume I, dated May 28, 2014;

3           4.       Attached hereto as **Exhibit “2”** is a copy of the Deposition of Dale McMann,  
4 Volume II, dated May 29, 2014;

5           5.       Attached hereto as **Exhibit “3”** is a copy of Buffalo’s Answers to Plaintiff’s  
6 Interrogatories in *Menard v. SPX Cooling Technologies, et al.*, No. 649687, 19<sup>th</sup> Judicial  
7 District Court, Parish of East Baton Rouge, Louisiana, dated May 18, 2017.

8           6.       Attached hereto as **Exhibit “4”** is a copy of Excerpts of Deposition of Martin  
9 Kraft, in *Peterson v. Ashland, Inc.*, No. 23941, District Court for Brazoria County, Texas,  
10 dated January 20, 2004.

11           7.       Attached hereto as **Exhibit “5”** is a copy of the Buffalo Forge Company’s  
12 Engineering Bulletin BP5-81, *Non-Asbestos Packing*, dated September 21, 1981.

13           8.       Attached hereto as **Exhibit “6”** is a copy of Buffalo Pumps, Inc.’s Discovery  
14 Responses, in *Beauchamp v. Buffalo Pumps, Inc.*, County of Los Angeles California No. BC-  
15 357289, dated December 15, 2006.

16           9.       Attached hereto as **Exhibit “7”** is a copy of Buffalo Pumps, Bulletin 903A and  
17 Pump Technical Data (1966).

18           10.      Attached hereto as **Exhibit “8”** is a copy of Buffalo Pumps Service Manual,  
19 Bulletin 901 / 3332B (1969).

20           11.      Attached hereto as **Exhibit “9”** is a copy of the Letter from Buffalo Pumps’  
21 Chief Engineer to Sealing Devices, Inc., re: *Non-Asbestos Gaskets*, dated October 9, 1984.

1           12. Attached hereto as **Exhibit “10”** is a copy of Excerpts of Deposition of Martin  
2 K. Kraft, in *Harkin v. American Optical Corporation, et al.*, No. 03-2130, Providence Superior  
3 Court, Rhode Island, dated June 16, 2004.

4           13. Attached hereto as **Exhibit “11”** is a copy of the Declaration of Melvin  
5 Wortman, dated March 13, 2009.

6           14. Attached hereto as **Exhibit “12”** is a copy of the Deposition of Melvin  
7 Wortman, dated April 10, 2009.

8           15. Attached hereto as **Exhibit “13”** is a copy of the Deposition of Melvin  
9 Wortman, dated April 16, 2009.

10           16. Attached hereto as **Exhibit “14”** is a copy of the Expert Report of Stephen  
11 Paskal, CIH, dated May 22, 2014.

12           17. Attached hereto as **Exhibit “15”** is a copy of the Supplemental Expert Report of  
13 Stephen Paskal, CIH, dated September 10, 2014.

14           18. Attached hereto as **Exhibit “16”** is a copy of the Affidavit of Arthur Frank  
15 M.D., Ph.D., dated June 17, 2014.

16           19. Attached hereto as **Exhibit “17”** is a copy of the Supplemental Affidavit of  
17 Arthur Frank, M.D., Ph.D., dated October 2, 2017.

18           20. Attached hereto as **Exhibit “18”** is a copy of the General Affidavit of Arthur  
19 Frank, M.D., Ph.D., dated December 20, 2016.

20           21. Attached hereto as **Exhibit “19”** is a copy of the Affidavit of Captain William  
21 A. Lowell, dated October 24, 2014.

1           22. Attached hereto as **Exhibit “20”** is a copy of Manual L-1, *Warning Labels: A*  
2 *Guide for the Preparation of Warning Labels for Hazardous Chemicals*, Manufacturing  
3 Chemists’ Association (1956).

4           23. Attached hereto as **Exhibit “21”** is a copy of Military Standard: *Marking For*  
5 *Shipment and Storage*, MIL-STD-129B (1957).

6           24. Attached hereto as **Exhibit “22”** is a copy of Military Standard: *Marking For*  
7 *Shipment and Storage*, MIL-STD 129C (1960).

8           25. Attached hereto as **Exhibit “23”** is a copy of Military Specification: *Plates,*  
9 *Tags, and Bands for Identification of Equipment*, MIL-P-15024D (1971).

10           26. Attached hereto as **Exhibit “24”** is a copy of Military Specification:  
11 *Preservation, Packaging, Packing and Marking of Pumps*, MIL-P-16789B (1962).

12           27. Attached hereto as **Exhibit “25”** is a copy of Military Specification: *Turbines,*  
13 *Steam, Propulsion For Naval Shipboard Use*, MIL-T-17600A (1955).

14           28. Attached hereto as **Exhibit “26”** is a copy of Military Standard: *Symbols for*  
15 *Packages And Containers For Hazardous Industrial Chemicals And Materials*, MIL-STD-  
16 1341A (1970).

17           29. Attached hereto as **Exhibit “27”** is a copy of Federal Standard: *Symbols for*  
18 *Packages And Containers For Hazardous Industrial Chemicals And Materials*, Std. No. 313  
19 (1971).

20           30. Attached hereto as **Exhibit “28”** is a copy of the Deposition of Adam Martin in  
21 *In Re: Asbestos Cases*, U.S. Dist. Court for the E.D.V.A., C/P No. 77-1, dated January 28,  
22 1983.

1           31. Attached hereto as **Exhibit “29”** is a copy of Defendant United States of  
2 America’s Supplemental Discovery Responses in *GAF v. United States*, No. 287-83-C, United  
3 States Claims Court, dated August 21, 1984.

4           32. Attached hereto as **Exhibit “30”** is a copy of the Dept. of the Navy, *Uniform*  
5 *Labeling Program*, SECNAV 5160.8 (1956).

6           33. Attached hereto as **Exhibit “31”** is a copy of the Dept. of the Navy, NAVSUP  
7 Publication 4500, *Consolidated Hazardous Items List*, (“CHIL”) (1969).

8           34. Attached hereto as **Exhibit “32”** is a copy of the Dept. of the Navy, Supply  
9 Systems Cmd, NAVSUP Pub. 4500, *Consolidated Hazardous Item List* (“CHIL”) (1977)

10           35. Attached hereto as **Exhibit “33”** is a copy of Excerpts of Deposition of David  
11 Sargent, in *Gray v. John Crane Inc., et al.*, Case No. CL0800724PT, in the Circuit Court for  
12 the City of Newport News, Virginia, dated April 29, 2009.

13           36. Attached hereto as **Exhibit “34”** is a copy of Military Specification: *Manuals,*  
14 *Equipment, and Systems*, MIL-M-15071C (1957).

15           37. Attached hereto as **Exhibit “35”** is a copy of Military Specification: *Manual,*  
16 *Service Instruction Books for Shipboard*, MIL-M-15071D (1961).

17           38. Attached hereto as **Exhibit “36”** is a copy of Military Specification, *Manuals,*  
18 *Equipment, and Systems*, MIL-M-15071E (1962).

19           39. Attached hereto as **Exhibit “37”** is a copy of Military Specification: *General*  
20 *Requirements for Technical Manuals*, MIL-M-38784, (1968).

21           40. Attached hereto as **Exhibit “38”** is a copy of the Letter from Johns-Manville  
22 Corp. to Owens-Corning Fiberglas Corp. dated August 18, 1964.  
23  
24  
25



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14 AIR & LIQUID SYSTEMS CORPORATION,  
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16 Defendants.

NO. 3:16-cv-05635 RBL

**CERTIFICATE OF SERVICE**

17  
18 **CERTIFICATE OF SERVICE**

19 I hereby certify that on January 29, 2018 I electronically filed the foregoing with the  
20 Clerk of the Court using the CM/ECF system which will send notification of such filing to the  
21 below listed counsel.

22  
23 I further certify that I have served by mail, facsimile and/or email the document to any  
24 non CM/ECF participant.

25 /s/ Barrett Naman

Barrett Naman, *Pro Hac Vice*

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